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EXAMINER	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/774,992
Filing Date: January 31, 2001
Appellant(s): COSENTINO, JOSEPH

Michael Chan
Reg. No. 33,663
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 19 August 2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 1-21 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6327677	GARG et al.	4-1998
6622264	BLILEY et al.	11-1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-5, 8-12, and 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Garg et al., United States Patent number 6,327,677, filed April 27, 1998. This rejection is set forth in a prior Office Action, mailed on May 27, 2003, reproduced herein.

As per claim 1, Garg discloses monitoring a number of operating parameters associated with operation of a system through the use of the monitoring system (col. 3, lines 58-60). Garg also discloses storing a number of operating parameters into a database, as is shown in the maintaining of analyzed operating parameters in the storage device (col. 5, lines 66-67, col. 6, lines 1-3). Garg discloses retrieving a fault finding test script file that contains a number of tests that can be performed on the system. This is disclosed in the cognitive signature module of Garg. This module stores one or more cognitive signatures (col. 6, lines 5-6). These cognitive signatures are individual tests that are used to test that the system is not in a state requiring the generation of alarm, and the module storing the tests acts as a test script file that contains a number of tests (col. 6, lines 5-16). Garg also discloses performing tests contained in the retrieved fault finding test script file using at least some of the parameters stored in the database to provide a number of signals indicative of a potential fault condition. The tests, or cognitive

signatures, are used to compare and test the operating parameters that are retrieved from the storage database to generate a potential fault condition alarm (col. 12, lines 4-20). Garg discloses updating the retrieved fault finding test script file based upon test results from tests that have been performed on the system. This is shown in the dependence of the update process of the cognitive signature tests to the results of previous testing (col. 7, lines 31-46).

As per claim 2, Garg teaches of displaying a message to assist an operator in diagnosing the potential fault condition before the potential fault condition actually occurs (col. 15, lines 15-21), where a message including message useful for diagnosing a problem can be sent before a problem escalates until a severe fault.

As per claim 3, Garg teaches periodically determining if the signals indicative of the potential fault condition match a predetermined fault pattern, where the comparison to historically determined threshold levels can indicate a fault pattern potential (col. 6, lines 6-13).

As per claim 4, Garg discloses alerting an operator when the signals indicative of the potential fault condition match the predetermined fault pattern (col. 6, lines 17-23).

As per claim 5, Garg discloses logging a fault event when the signals indicative of the potential fault condition match the predetermined fault pattern, where the various notification responses log the event (col. 7, lines 12-20).

As per claims 8-12, these claims are the means for applying the methods of claims 1-5. Garg discloses a Network Monitor (fig. 2) that provides a means utilizing the disclosed methods. The implementation utilizing a network monitor allows claims 8-12 to be rejected under the same grounds as listed above.

As per claim 15-19, these claims are a software implementation of the methods of claims 1-5. Garg discloses performing the methods mentioned above in software (col. 16, lines 64-67), and the grounds of rejection are the same as those above while utilizing a software program.

2. Claims 6, 7, 13, 14, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garg in further view of Bliley et al., United States Patent no. 6,622,264, filed November 22,1999. This rejection is set forth in a prior Office Action, mailed on May 27, 2003, reproduced herein.

As per claim 6, Garg discloses the limitations depending from claim 1, as mentioned above. Garg further discloses sending notification to the operator that would aid in diagnosing a potential fault condition (Garg, col. 6, lines 13-23). Garg fails to disclose further displaying a number of actions on a screen to assist the operator in diagnosing the potential fault condition.

Bliley discloses displaying a number of actions on a screen to assist the operator in diagnosing the potential fault condition, (Bliley, col. 5, lines 45-51).

It would have been obvious to one skilled in the art at the time the invention was made to include the display mechanism of Bliley in the output of Garg.

This would have been obvious because Garg obviously expresses a desire to provide diagnostic information to the operator, as shown in the emails sent to administrators (Garg, col. 15, lines 15-21). Bliley discloses providing the operator with data provided by an electronic database to check as an aid for diagnosis (Bliley, col. 5, lines 45-51). This database provides increased reliability in indicating to a operator of

the system the proper course of action by indicating possible diagnosis and repair information in an electronic format (Bliley, col. 5, lines 40-51, col. 6, lines 43-45). It would have been obvious to one skilled in the art at the time the invention was made to include the data of the electronic database of Bliley in the message sent by Garg, which as an email is inherently displayed to a screen of an email viewing device, to provide for more complete fault diagnosis information and activities for the operator to gain any necessary data. The inclusion of this database in an electronic message would have included the obvious benefit of providing the administrator with a direction to take in the diagnosis and repair of the fault.

As per claim 7, the combined invention of Garg and Bliley described above teaches of displaying specific instructions to provide a step-by-step approach to diagnosing the potential fault condition, as shown in the set of instructions (Bliley, col. 5, lines 45-51).

As per claims 13 and 14, these claims are the means for applying the methods of claims 6 and 7. Garg discloses a Network Monitor (fig. 2) that provides a means utilizing the disclosed methods. The implementation utilizing a network monitor allows claims 13 and 14 to be rejected under the same grounds as listed above.

As per claim 20 and 21, these claims are a software implementation of the methods of claims 6 and 7. Garg discloses performing the methods mentioned above in software (col. 16, lines 64-67), and the grounds of rejection are the same as those above while utilizing a software program.

(11) Response to Argument

1. With reference to Garg et al., the applicant states "that the cognitive signatures disclosed in Garg et al. are not fault finding test script files which contain tests which can be performed on the system as suggested by the Examiner. The cognitive signatures in Garg et al. are simply historical data (see column 6, lines 6-11 and lines 58-64 in the specification of Garg et al.)."

The examiner respectfully disagrees with applicant's statement that the cognitive signatures are not fault finding test script files. The cognitive signatures presented in Garg et al. are functionally equivalent to test script files. The cognitive signatures exist primarily for the purpose of test comparison on the system. The fact that they are historical data is irrelevant because the purpose to which the signatures are applied is of a testing nature. The cognitive signatures act as individual tests that are used to test that the system is not in a state requiring the generation of alarm, and the module storing the tests acts as a test script file that contains a number of tests (col. 6, lines 5-16). The cognitive signatures are further used to compare and test the operating parameters that are retrieved from the storage database to generate a potential fault condition alarm (col. 12, lines 4-20). The historical data is used in detection of fault conditions, the testing utilizes the historical data as a script file for state comparisons, thus the cognitive signatures act as the basis for the testing to be done, thus making them fault finding test script files.

2. Applicant further asserts that "none of the prior art including Garg et al. discloses or suggests that a fault finding test script file is being updated based upon test results from tests which have been performed. While the cognitive signatures (i.e., the historical data) in Garg et al. may be updated, there is no disclosure or suggestion of a fault finding test script file being updated."

The examiner respectfully disagrees with applicant's statement that none of the prior art includes the updating of a fault finding test script file based upon test results. The cognitive signatures of Garg et al., which are shown to be equivalent to test script files in the previous argument and in the rejection above, are updated in part based upon the results of some of the testing analysis. The dependence upon the test results of a previous testing is shown in Garg et al., col. 7, lines 31-46, where the detection of a significant problem will change the weight give to the data collected in the previous execution when calculating the new, updated, cognitive signature for use in future testing operations.

3. Applicant has respectfully requested that the Examiner explain how "a test script file" and "data" could mean the same thing when the two terms are clearly different in meaning. The examiner feels that, while the two terms are clearly different, for the purpose of examination the terms are compatible in function based upon a broad reasonable interpretation of their meaning. A "test script file" is interpreted as a listing of data that is used in a testing environment to provide the basis and structure of the testing to be implemented. The "data", in this case historical data contained within the cognitive signatures, is also used in a testing environment to provide the data for use in a

comparison operation, in which it controls the basis of the testing operation, see Garg et al., col. 12, lines 4-20. The data provided by Garg et al., such as peak utilization data, is used in testing for a condition in which there exists a potential fault. While both terms are clearly different, for the purpose of examining the application as it is currently claimed, both the "test script file" and the "data" contain tests that are performed on the system to detect potential fault conditions and are updated to better predict future potential faults.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

JAL
December 9, 2004

Conferees
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